BILL NO. 91-11-39

ORDINANCE NO. S-296-91

AN ORDINANCE authorizing the City of Fort Wayne, Indiana, to make temporary loans to meet current running expenses for the use of the General Fund, the Fire Fund, the Park Fund, the Police Pension Fund, the Fire Pension Fund, and the Debt Service Fund of the Issuer, in anticipation of and not in excess of current taxes levied in the year 1991, and collectable in the year 1992; authorizing the issuance of temporary loan tax anticipation time warrants to evidence such loans and the sale of such warrants the Indiana Bond Bank; and appropriating and pledging the taxes to be received in such funds to the punctual payment of such warrants including the interest thereon.

WHEREAS, the City Controller (the "City Controller") of the City of Fort Wayne, Indiana (the "Issuer"), has represented and the Common Council of the Issuer (the "Common Council") now finds that there will be insufficient amounts of moneys in the General Fund, the Fire Fund, the Park Fund, the Police Pension Fund, the Fire Pension Fund, and the Debt Service Fund of the Issuer (collectively, the "Funds") to meet the current running expenses of the Issuer payable from each of such funds during the fiscal year ending December 31, 1992, and prior to the respective June and December settlement and distribution of taxes levied for each such Fund; and

WHEREAS, the Common Council now finds that temporary loans for the Funds for such purposes should be made and that temporary loan tax anticipation time warrants evidencing such loans should be issued and sold, subject to the terms and conditions set forth herein and in accordance with the provisions of Indiana law; and

WHEREAS, the Common Council hereby determines to participate in the 1992 Composite Advance Funding Program (the "Program") established by the Indiana Bond Bank (the "Bond Bank") whereby the Bond Bank will purchase the temporary loan tax anticipation time warrants of the Issuer; and

WHEREAS, in order to participate in the Program the Common Council will be required to issued and sell its temporary loan tax anticipation time warrants to the Bond Bank prior to the final certification of the annual budget levies and tax rates for the Funds for fiscal year 1992 by the Indiana State Board of Tax Commissioners; and

WHEREAS, the levy proposed for collection for each of the Funds in the year 1992 is estimated to produce in the aggregate, with respect to each such fund, an amount equal to or in excess of the principal and interest cost of making temporary loans for such Fund; and

WHEREAS, a necessity exists for the making of temporary loans evidenced by temporary loan tax anticipation time warrants for each of the Funds in anticipation of the receipt of current revenues for each such Fund levied and in the course of collection for the year 1992 and the Common Council hereby authorizes the making of temporary loans to procure the amounts necessary, in combination with other available amounts, to meet such current running expenses for each Fund and to pay necessary costs incurred in connection with the issuance and sale of temporary loan tax anticipation time warrants to evidence such temporary loans; and

WHEREAS, the Issuer has not previously issued temporary loan tax anticipation time warrants payable from 1992 tax revenues with respect to any of the Funds; and

WHEREAS, the Common Council seeks to authorize the issuance of such temporary loan tax anticipation time warrants with respect to each Fund and the sale of such warrants to the Bond Bank pursuant to the provisions of Indiana Code 5-1.5, subject to and dependent upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. It is hereby found and declared that an emergency exists for the borrowing of money and therefore the Issuer is hereby authorized to make temporary loans to meet current running expenses pursuant to the provisions of Indiana Code 36-4-6 for the use and benefit of each of the Funds of the Issuer in anticipation of current tax revenues actually levied and in the course of collection for the respective Funds for the year 1992, which loans shall be evidenced by temporary loan tax anticipation time warrants of the Issuer (the "Warrants"). All Warrants shall be dated as of the date of delivery thereof to the Bond Bank. A separate Warrant or Warrants shall be issued with respect to each Fund for each maturity date. The Issuer is authorized to issue Warrants maturing and payable on June 30, 1992, and December 31, 1992, in amounts not to exceed the following:

Fund	Principal Amount Maturing 6/30/92 Not to Exceed:	Principal Amount Maturing 12/31/92 Not to Exceed:
General Fund	$7,579,269	$7,579,269
Fire Fund	$3,743,043	$3,743,043
Park Fund	$1,849,102	$1,849,102
Police Pension Fund	$ 591,846	$ 591,846
Fire Pension Fund	$ 717,826	$ 717,826
Debt Service Fund	$1,648,410	$1,648,410

The Warrants shall bear interest prior to maturity at a rate or rates per annum not to exceed a maximum of six and one-half percent (6.50%). The exact rate or rates of interest are to be determined under the terms of a warrant purchase agreement between the Bond Bank and the Issuer to be entered into prior to the sale of the Warrants to the Bond Bank (the "Warrant Purchase Agreement"), in accordance with the provisions of Indiana Code 5-1.5. Warrants not timely paid will bear interest at a rate or rates after maturity as set forth in the Warrant Purchase Agreement. Interest shall be calculated on the basis of a 360-day year comprised of twelve 30-day months.

SECTION 2. With respect to each Fund and each maturity date, the officers of the Issuer are authorized to deliver a principal amount of Warrants up to or less than the maximum amount established for any such Fund or maturity date in Section 1 hereof in order to comply with all applicable laws and any requirements of the Bond Bank. The Issuer shall not have the option to prepay the Warrants pursuant to the terms of the Warrant Purchase Agreement. All Warrants will be delivered at the time of payment with respect to any Fund or otherwise as appropriate and in accordance with the terms of the Warrant Purchase Agreement. In the event that the Issuer anticipates incurring cash flow deficits prior to the issuance and sale of the Warrants to the Bond Bank, the Issuer is hereby authorized to issue and sell temporary interim warrants to the Bond Bank on substantially the same terms as the issuance and sale of the Warrants to the Bond Bank, and in such event, all or a portion

of the proceeds of the Warrants may be used to repay the temporary interim warrants.

SECTION 3. The principal of and interest on the Warrants, together with all necessary costs incurred in connection with the issuance and sale of the Warrants, shall be payable from tax revenues to be received in the respective Fund upon which such Warrant is issued. There is hereby appropriated and pledged to the payment of all Warrants issued with respect to each Fund, including interest and all necessary costs incurred in connection with the issuance and sale of the Warrants, a sufficient amount of the tax revenues, levied in 1991, and payable in 1992, for such Fund and in anticipation of which the Warrants have been issued, for the punctual payment of the principal of and interest on the Warrants evidencing such temporary loans, together with such issuance costs, if any. Neither the principal amount of all Warrants maturing on or prior to June 30, 1992, nor the principal amount of all Warrants maturing after June 30, 1992, and on or prior to December 31, 1992, shall exceed forty percent (40%) of the 1992 annual budget levy for such Fund as estimated or certified by Indiana State Board of Tax Commissioners.

SECTION 4. The Warrants issued hereunder with respect to the Funds shall be executed in the name of the Issuer by the manual or facsimile signature of the Mayor of the city of Fort Wayne, Indiana (the "Mayor"), countersigned by the manual or facsimile signature of the City Controller, and the corporate seal of the Issuer affixed thereto, and attested by the manual or facsimile signature of the Clerk of the City of Fort Wayne, Indiana (the "Clerk"), provided, however, that at least one such signature on the Warrants shall be manual. All Warrants shall be payable in lawful money of the United States of America at the principal corporate trust office of INB National Bank in Indianapolis, Indiana, as Trustee under the Note Indenture with the Bond Bank, dated as of January 1, 1992. Further, the Warrants shall not be delivered and no payment shall be made therefor prior to January 1, 1992.

SECTION 5. The Warrants with respect to each Fund shall be issued in substantially the following form (all blanks, including the appropriate amounts, dates, and other information to be properly completed prior to the execution and delivery thereof):

[Form of Warrant]

UNITED STATES OF AMERICA

STATE OF INDIANA COUNTY OF ALLEN

Due Date: [June 30, 1992, or December 31, 1992] $_____

CITY OF FORT WAYNE, INDIANA
TEMPORARY LOAN TAX ANTICIPATION TIME WARRANT
(_____Fund)

FOR VALUE RECEIVED, on or before [June 30, 1992, or December 31, 1992], the City of Fort Wayne, Indiana (the "Issuer"), shall pay to the Indiana Bond Bank (the "Bond Bank") the amount of $_____ pursuant to a certain Warrant Purchase Agreement between the Bond Bank and the Issuer, dated as of (the "Agreement").

In addition, the Issuer on the Due Date hereof shall pay to the Bond Bank interest at the rate of _____% per annum, with such interest to the calculated on the basis of a 360-day year comprised of twelve 30-day months. Under the Note Indenture dated as of January 1, 1992, INB National Bank, Indianapolis, Indiana, is serving as the Bond Bank's Trustee

(the "Trustee"). In the event that the principal of and interest on this Warrant are not paid in full to the Bond Bank at the principal corporate trust office of the Trustee in immediately available funds on or before 12:00 noon (Indianapolis time) on the Due Date, the total amount due and owing on the Due Date (the unpaid principal and accrued interest to the Due Date) shall thereafter bear interest at the per annum rate equal to the Reinvestment Rate (as defined in the Agreement), until paid.

All payments of principal and interest to be made by the Issuer to the Bond Bank shall be made by paying the amount due in funds that are available for immediate transfer or investment on or before 12:00 noon (Indianapolis time) on the payment date to the Trustee in Indianapolis, Indiana. This Warrant may not be prepaid prior to the Due Date.

This Warrant evidences a temporary loan to provide funds to meet current expenses of the _____ Fund, and has been authorized by an ordinance passed and adopted by the Common Council of the City of Fort Wayne, Indiana, on _____, 1991, in accordance with Indiana Code, Title 36, Article 4, Chapter 6, and all other acts amendatory thereof or supplemental thereto.

This Warrant is issued in anticipation of the tax levy which has been made for the _____ Fund in the year 1992, which tax levy is now in the course of collection. There has been irrevocably appropriated and pledged to the payment in full of the principal of and interest on this Warrant a sufficient amount of the revenues to be derived from the _____ Fund tax levy. The principal amount of all Warrants payable from the _____ Fund does not exceed forty percent (40%) of the 1992 annual budget levy for the _____ Fund as estimated or certified by the Indiana State Board of Tax Commissioners.

It is further hereby certified, recited, and declared that all acts, conditions, and things required by law precedent to the issuance and execution of this Warrant have been properly done, have happened, and have been performed in the manner required by the constitution and statutes of the State of Indiana relating thereto; that the _____ Fund tax levy from which (together with other amounts in the _____ Fund) this Warrant is payable, is a valid and legal levy; and that the Issuer will reserve a sufficient amount of the proceeds of the _____ Fund tax levy currently in the course of collection for the timely payment of the principal of and interest on this Warrant in accordance with its terms.

IT WITNESS WHEREOF, the City of fort Wayne, in the County of Allen, State of Indiana, has caused this Warrant to be executed in its corporate name by the Mayor of the City of Fort Wayne, Indiana, countersigned by the City Controller of the City of Fort Wayne, Indiana, and its corporate seal to be hereunto affixed and attested by the City Clerk of the City of Fort Wayne, Indiana, all as of the _____ day of January, 1992.

CITY OF FORT WAYNE, INDIANA

BY: _____
Mayor, City of Fort Wayne, Indiana

COUNTERSIGNED:

BY: _____
City Controller,
City of Fort Wayne, Indiana

(SEAL)

ATTEST:

_____
City Clerk, City of Fort Wayne, Indiana

(End of Form of Warrant)

SECTION 6. The City Controller is hereby authorized and directed to have the Warrants prepared, and the Mayor, the City Controller, and the City Clerk are hereby authorized and directed to execute all Warrants in the manner and substantially the form provided in this Ordinance.

SECTION 7. The City Controller, on behalf of the issuer, is authorized to sell the Warrants to the Bond Bank. The Warrant Purchase Agreement shall set forth the definitive terms and conditions for such sale. Warrants sold to the Bond Bank shall be accompanied by all documentation required by the Bond Bank pursuant to the provisions of Indiana Code 5-1.5 and the Warrant Purchase Agreement, including without limitation an approving opinion of Baker & Daniels, specially designated bond counsel for the Warrants; certification and guarantee of signatures; and certification as to no litigation pending as of the date of delivery of the Warrants to the Bond Bank challenging the validity or issuance of the Warrants. The entry by the Issuer into the Warrant Purchase Agreement and the execution of the Warrant Purchase Agreement, on behalf of the Issuer by the City Controller and the City Clerk, in accordance with this Ordinance, are hereby authorized and approved.

SECTION 8. The City Controller is hereby authorized to deliver the Warrants to the Bond Bank, upon receipt from the Bond Bank of payment in accordance with the terms of the Warrant Purchase Agreement.

SECTION 9. The City Controller and other appropriate officers of the Issuer are hereby authorized and directed to make such filings and requests, deliver such certifications, execute and deliver such documents and instruments, and otherwise take such actions as are necessary or appropriate to carry out the terms and conditions of this Ordinance and the actions authorized hereby and thereby.

SECTION 10. The Issuer hereby covenants that the Issuer and its officers shall not take any action or fail to take any action with respect to the proceeds of any of the Warrants or any investment earnings thereon which would result in constituting any of the Warrants as "arbitrage bonds" under the Internal Revenue Code of 1986, as amended, and any and all final or proposed regulations or rulings applicable thereto, or which would otherwise cause the interest on any of the Warrants to cease to be excludable from gross income for purposes of federal income taxation; and the City Controller and all other appropriate officers are hereby authorized and directed to take any and all actions and to make and deliver any and all reports, filings, and certifications as may be necessary or appropriate to evidence, establish, or ensure such continuing exclusion of the interest on the Warrants.

SECTION 11. This Ordinance shall be in full force and effect from and after the time it has been adopted by the Common Council, approved by the Mayor, and otherwise executed and delivered in accordance with any and all laws pertaining thereto.

SECTION 12. All resolutions and ordinances in conflict herewith are, to extent of such conflict, hereby repealed.

SECTION 13. That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

Council Member

APPROVED AS TO FORM
AND LEGALITY

J. Timothy McCaulay, City Attorney

Read the first time in full and on motion by Giaquinta, seconded by Edmonds, and duly adopted, read the second time by title and referred to the Committee on Finance (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Conference Room 128, City-County Building, Fort Wayne, Indiana, on _____, the _____, day of _____, 19____, at _____ o'clock ____.M.,E.S.T.

DATED: 11-26-91

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Helmke, seconded by Redd, and duly adopted, placed on its passage. PASSED ~~LOST~~ by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT
TOTAL VOTES	7			2
BRADBURY	✓			
BURNS				✓
EDMONDS	✓			
GiaQUINTA				✓
HENRY	✓			
LONG	✓			
REDD	✓			
SCHMIDT	✓			
TALARICO	✓			

DATED: 12-10-91

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as ~~(ANNEXATION)~~ ~~(APPROPRIATION)~~ (GENERAL) (SPECIAL) (ZONING MAP) ~~ORDINANCE~~ RESOLUTION NO. R-296-91 on the 10th day of December, 19 91.

ATTEST: Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

SEAL
Samuel J. Talarico
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 11th day of December, 19 91 at the hour of 10:30 o'clock A.M.,E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 11th day of December 19 91, at the hour of 10:45 o'clock A.M.,E.S.T.

Paul Helmke
PAUL HELMKE, MAYOR

DIGEST SHEET

TITLE OF ORDINANCE ORDINANCE

DEPARTMENT REQUESTING ORDINANCE CONTROLLER'S OFFICE

SYNOPSIS OF ORDINANCE ALLOWS CIVIL CITY (IN THE FORM OF 6 TAX SUPPORTED FUNDS: GENERAL, DEBT SERVICE, PARKS, FIRE, POLICE PENSION, AND FIRE PENSION FUNDS) TO OPERATE - TO FUND PAYROLLS AND PAY INVOICES - ON A TIMELY BASIS BY PARTICIPATING IN THE INDIANA BOND BANK'S SHORT-TERM BORROWING PROGRAM. THIS IS NECESSARY BECAUSE THE MAJORITY OF THE REVENUE IN THESE FUNDS COMES IN LARGE SEMI-ANNUAL DISTRIBUTIONS.

S-91-11-39.

EFFECT OF PASSAGE CIVIL CITY IS ABLE TO FUND ITS NEEDS ON A TIMELY BASIS

EFFECT OF NON-PASSAGE CIVIL CITY WILL NOT BE ABLE TO FUND PAYROLL OR PAY ITS INVOICES ON A TIMELY BASIS.

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) MAXIMUM AMOUNT TO BE BORROWED IN 6 FUNDS - $16,129,496; BUDGETED INTEREST EXPENSE - $513,364.

ASSIGNED TO COMMITTEE (PRESIDENT) _____

BILL NO. S-91-11-39

REPORT OF THE COMMITTEE ON FINANCE

MARK E. GiaQUINTA, CHAIRMAN
DONALD J. SCHMIDT, VICE CHAIRMAN
BRADBURY, REDD, BURNS

WE, YOUR COMMITTEE ON FINANCE TO WHOM WAS REFERRED AN (ORDINANCE) ~~(RESOLUTION)~~ Time Warrants

HAVE HAD SAID (ORDINANCE) ~~(RESOLUTION)~~ UNDER CONSIDERATION AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID (ORDINANCE) ~~(RESOLUTION)~~

DO PASS	DO NOT PASS	ABSTAIN	NO REC
Mark E. GiaQuinta			
J. Bradbury			
Paul H. Burns			

DATED: 12-10-91

Sandra E. Kennedy
City Clerk